

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

MURPHY OIL USA, INC.

UST NO. 200000043

**ADMINISTRATIVE
CONSENT ORDER**
2012-UT- 03

TO: Cindy House
Murphy Oil USA, Inc.
200 E. Peach Street
P.O. Box 7300
El Dorado, AR 71731-5836

Murphy Oil USA, Inc.
c/o CT Corporation System
500 East Court Avenue
Des Moines, IA 50309

I. SUMMARY

The Iowa Department of Natural Resources (Department) and Murphy Oil USA, Inc. (Murphy Oil) hereby agree to the following Administrative Consent Order (Order). Murphy Oil agrees to conduct and document underground storage tank (UST) inspections related to secondary containment and release detection, pay an administrative penalty of \$6,000, and agrees to stipulated penalties for specified future violations. See Sections IV and V below for additional details.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Janet Gastineau
Iowa Department of Natural Resources
401 SW 7th Ste I
Des Moines, Iowa 50309
Ph: 515-725-0334

Relating to legal requirements:

Aaron Brees, Attorney
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515-281-5965
aaron.brees@dnr.iowa.gov

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 503219-0034

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

II. JURISDICTION

This Order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476, which authorize the Director of the Department to issue any order necessary to secure compliance with Iowa Code chapter 455B, Division IV, Part 8 and Department rules contained in chapter 567 Iowa Administrative Code (IAC) 135. Iowa Code section 455B.109 and administrative rules in chapter 567 IAC 10 authorize the Director to assess administrative penalties up to \$10,000.

III. STATEMENT OF FACTS

The Department and Murphy Oil hereby agree to the following statement of facts:

1. Murphy Oil is the registered owner and operator of a facility containing two 12,000 gallon USTs located at 3405 8th Street SW in Altoona, Iowa. This facility is a convenience store engaged in the retail sale of petroleum vehicle fuels.
2. On December 18, 2007, Ron Yorgavan of Tanknology Inc. (Tanknology) contacted Bill Gross at Department Field Office 5 (FO5) to report that he had found the tank interstitial alarms going off during a compliance inspection of the Murphy Oil facility. Murphy Oil uses interstitial alarms to meet leak detection requirements.
3. On December 16, 2009, John Mades of Tanknology contacted Bill Gibbons at FO5 to report that during a compliance inspection of the facility he had discovered that several months of release detection records were missing. Mr. Mades's compliance inspection report was provided to the Department on December 22, 2009. It noted leak detection sensor status records showing "fail" on the diesel/premium tank from March through August 2009, and that the spill containment basins needed to be cleaned.
4. On July 14, 2010, Janet Gastineau of FO5 visited the facility to conduct an audit of the December 16, 2009 compliance inspection. Ms. Gastineau's inspection revealed a number of continuing issues. The spill containment basins again contained liquid. The interstitial sensor for the diesel/premium tank was in alarm at the time of the inspection. Records on site documented three consecutive months without a "normal" status for the diesel/premium interstitial sensor.
5. On July 21, 2010, the Department sent Murphy Oil a Notice of Violation (NOV) letter detailing the above deficiencies and requiring a written response by August 23, 2010. This response required demonstration that Murphy Oil had instituted an inspection procedure for their spill containment basins and was performing adequate release detection in response to the continued sensor alarm.
6. On August 6, 2010, Cindy House of Murphy Oil provided release detection records from August 1, 2009—August 1, 2010. These records showed frequent alarms but

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

showed at least one "normal" status each month except for September 2009. No information was provided regarding containment basin inspections.

7. On April 6, 2011, Ms. Gastineau conducted a follow up inspection which revealed a number of issues. Ms. Gastineau contacted Ms. House by telephone afterward to discuss the results, at which time Ms. House requested the results be provided in writing. In response, the Department sent an NOV to Murphy Oil on April 12, 2011 which noted that the automatic tank gauge (ATG) was in alarm at the time of the inspection, each of the three containment basins contained liquid, and documentation on site showed interstitial sensor fuel alarms for the diesel/premium tank from July 2010 through November 2010 with no records for December 2010. A written response was required by May 16, 2011.

8. On May 25, 2011, Ms. House submitted a maintenance log for the spill containment basins and an ATG repair ticket.

9. On December 13, 2011, Ms. Gastineau conducted a follow up visit to the facility. She found the ATG in alarm for one of the submersible turbine pump (STP) sumps. Documentation on site indicated that this same sensor had been in alarm since mid-July 2011. Ms. Gastineau also documented that each of the three spill containment basins contained fuel or a fuel/water mixture.

10. On December 16, 2011, the Department sent Murphy Oil an NOV letter detailing the above deficiencies and stating that Murphy Oil would be referred to the Department's Legal Services Bureau due to the chronic nature of the violations.

IV. CONCLUSIONS OF LAW

The parties hereby agree that the following conclusions of law are applicable to this matter:

1. Iowa Code chapter 455B, Division IV, Part 8 (sections 455B.471-455B.479) establishes the Underground Storage Tank (UST) program. Section 455B.472 declares that the release of regulated substances, including petroleum products, from USTs constitutes a threat to the public health and safety and to the natural resources of the state, and this regulatory program is necessary to adequately address this concern. Iowa Code section 455B.474 authorizes the Environmental Protection Commission (Commission) to adopt rules related to release detection and prevention, financial responsibility, tank closure, site assessment, risk classification, corrective action, and reporting and record keeping requirements applicable to all owners and operators of USTs. The Commission has adopted such rules in 567 IAC chapters 135 and 136.

2. Iowa Code section 455B.471(6) defines an "owner" of USTs. Murphy Oil is an owner of USTs at the above referenced facility and has been at all times relevant to this Order.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

3. Iowa Code section 455B 471(5) defines "operator" of USTs as "a person in control of, or having responsibility for, the daily operation of the underground storage tank." Murphy Oil is an operator of the above referenced facility and has been at all times relevant to this Order.
4. 567 IAC 135.3(1)(c)(1)(1) requires owners and operators to use "[s]pill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin)" and 567 IAC 135.4(1)(a) states that "[o]wners and operators must ensure that releases due to spilling or overfilling do not occur." By failing to keep its catchment basins free of debris, water, and product, and by failing to consistently inspect its equipment, Murphy Oil has failed to ensure that its spill prevention equipment is capable of preventing a release of product to the environment due to spilling or overfilling as required.
5. 567 IAC 135.5(1) requires owners and operators of UST systems to employ a method of leak detection that can detect releases from the UST. 567 IAC 135.5(4) lists acceptable methods of leak detection and provides minimum standards. Murphy Oil's approved method is continuous interstitial monitoring. 567 IAC 135.5(4)(g) states that continuous interstitial monitoring must be provided by a sensor that can detect product in the interstitial space and alert the operator. In the alternative, non-continuous monthly monitoring can be used by employing a procedure capable of detecting the presence of product in the interstitial space. Because Murphy Oil's system was in a regular state of false alarm, often continuously for months at a time and over the course of five years, this system was not capable of providing leak detection in compliance with the rules.
6. 567 IAC 135.5(1) requires owners and operators of UST systems to employ a method of leak detection that can detect releases from any piping that regularly contains product. 567 IAC 135.5(5) provides acceptable methods of leak detection for piping and provides minimum standards. Murphy Oil's approved method is a combination of interstitial monitoring and line tightness testing. For the same reasons specified in item 5 above, Murphy Oil is in violation of this rule.

V. ORDER

THEREFORE, the Department hereby orders and Murphy Oil agrees to the following:

1. Murphy Oil shall maintain an inspection log at the facility demonstrating compliance with the following:
 - a. Inspection of spill containment basins before and after a fuel delivery. The spill containment basins must be empty of debris, including absorbent materials,

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

and liquids prior to delivery and fuel must be removed from them immediately after each delivery. Fuel/water mixtures must be disposed of properly.

b. Monthly inspections of each containment basin to remove debris and check for loose gaskets, cracks, corrosion, or other indications of spill containment failure. Breaches in existing sumps allowing water to enter must be found and repaired or replaced.

c. Monthly inspections of other sumps and removal and proper disposal of any liquid they contain. If breaches are found in existing sumps, they must be repaired or replaced. If water cannot be kept out of contact with metal tank appurtenances, supplemental cathodic protection must be installed.

2. Murphy Oil shall immediately investigate the cause of liquid sensor alarms in interstitial spaces and sumps and document the actions taken in accordance with 567 IAC 135.5(6)(b).

3. Murphy Oil shall ensure that release detection is conducted in accordance with 567 IAC 135.5, documented according to 135.5(6), and reported to the Department when required by 135.6(1).

4. Murphy Oil shall pay an administrative penalty of \$6,000 to the order of the Department of Natural Resources within 30 days of receipt of this Order.

5. For future violations at this facility, Murphy Oil agrees to the following stipulated penalties:

a. \$100 per basin or sump found to contain fuel or debris during future compliance inspections at this facility,

b. \$100 if the spill containment basin inspection log is not up to date during future compliance inspections, and

c. \$100 for each month for which effective release detection for tanks or piping is not properly documented during future compliance inspections.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

VI. PENALTY

1. Iowa Code section 455B.477 authorizes the assessment of civil penalties in Iowa District Court of up to \$5,000 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code sections 455B.109 and 455B.476 authorize the Commission to establish by rule a schedule of civil penalties up to \$10,000 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties. See 567 IAC 10.

ECONOMIC BENEFIT: Murphy Oil saved on employee costs by not conducting and documenting more frequent inspections of the spill containment basins and/or by not replacing existing basins with liquid-tight ones. Murphy Oil benefited economically by failing to more diligently pursue the interstitial alarm issue by conducting a more thorough investigation or by hiring a contractor to perform such an investigation. For this factor, a penalty of \$500 is assessed.

GRAVITY: Proper release detection is an extremely important part of safely operating an UST system. Murphy Oil's ineffective leak detection has greatly increased the odds that a leak could occur and remain undetected, increasing the impact on the environment and increasing the cost and difficulty of cleanup. Improperly maintained spill containment basins directly increase the risk of a release to the environment. By not keeping the basins free of liquid, the basins do not have their full capacity available in the event of a spill. Both of these violations are serious and increase the likelihood of environmental impact in the event of a release. For this factor, a penalty of \$2,500 is assessed.

CULPABILITY: Murphy Oil was informed of its non-compliance in writing and by telephone on several occasions, including three NOV letters, and was told repeatedly what needed to be done at this site to come into compliance. The necessary actions regarding the spill containment basins were not taken. Although Murphy Oil made some attempts to repair the interstitial sensor for the diesel/premium tank, the problem persisted for years, and compliance and Department inspections regularly documented inadequate release detection for the UST system. For these factors, an additional penalty of \$3,000 is assessed.

The total penalty calculation comes to \$6,000.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.476, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
MURPHY OIL USA, INC.

into knowingly by and with the consent of Murphy Oil. By signing this Order all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

Compliance with sections V.1 through V.4 of the Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.477. The Department reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this Order.

Anna W. Jones

Dated this 4th day of May, 2012

R. L. Lande
ROGER L. LANDE, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 24 day of May, 2012